IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

Crl.MC.No. 3656 of 2007()

AGAINST THE ORDER DATED 21/11/2007 IN CMP 4204/2007 IN CC.1653/2004 of JUDL. MAGISTRATE OF FIRST CLASS COURT, KUNNAMKULAM

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PETITIONER: ACCUSED:

T.N. VASUDA, W/O. RAJARAM,
KODALIL PUSHPAKAM, PAZHUNNANA,CHEMMAMTHITTA P.O.
KECHERY VIA., THRISSUR DISTRICT.

BY ADV. SRI.RAJIT
SRI.K.J.PRAJI
SMT.A.S.SOJI

RESPONDENTS: COMPLAINANT & STATE:

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1. K.F. JOSE,
KUTHOOR HOUSE, CONVENT ROAD, MATTAM,THRISSUR DIST.

2. STATE OF KERLALA,
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3656 of 2007

Dated this the 10th day of December, 2007

O R D E R

Petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. At the fag end of trial - at the defence stage, the petitioner wanted the cheque to be sent to the expert. The learned Magistrate, by the impugned order, has rejected the said prayer. The petitioner has come to this Court claiming to be aggrieved by the said order.

2. According to the learned counsel for the petitioner, the complainant had admitted at various stages that the cheque was written and signed by the accused. The petitioner now wants the cheque to be forwarded to the expert to establish his contention that the cheque was not written by the complainant though he admits his signature in the cheque.

3. The learned Magistrate took note of the fact that signature is admitted and in these circumstances, it is not necessary to send the cheque to the expert.

4. I must alertly remind myself of the nature, quality and contours of the jurisdiction that I am called upon to invoke and

exercise. The impugned order is an interlocutory order. It is only a step in aid for the proper conduct of the case. An interlocutory order ordinarily and normally must wait for its challenge until the final disposal of the case. After the final disposal, if the petitioner finds the need and is persuaded to do so, he can certainly challenge the interlocutory order also along with the final order. Law frowns against the challenge against interlocutory orders during the pendency of the proceedings and the consequent unnecessary protraction of the trial. This principle of law is clearly reflected in Section 397(2) Cr.P.C which proscribes the challenge against the interlocutory order in revision.

5. I have considered the entire materials. I have been taken through the relevant documents, the proof affidavit as also the cross examinations of the complainant. I need only mention at this stage that I am not persuaded to agree that the extraordinary inherent jurisdiction under Section 482 Cr.P.C can or ought to be invoked in favour of the petitioner to interfere with the impugned order.

6. In the result, this Crl.M.C is dismissed. I may hasten to observe that the dismissal of this petition will not in any way fetter the rights of the petitioner to challenge the impugned order also along with the final order to be passed in the prosecution by the learned Magistrate if need arises for such challenge.

(R.BASANT, JUDGE)

rtr/-